



This document is scheduled to be published in the Federal Register on 10/14/2016 and available online at <https://federalregister.gov/d/2016-24674>, and on [FDsys.gov](https://fdsys.gov)

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-150992-13]

RIN 1545-BM03

Election to Take Disaster Loss Deduction for Preceding Year

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Proposed Rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations under section 165(i) of the Internal Revenue Code (Code) relating to the election to take a disaster loss in the preceding year. The text of those temporary regulations also serves as the text of these proposed regulations. This document also invites comments from the public regarding these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-150992-13), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG-150992-13), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-

150992-13).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Daniel Cassano at (202) 317-7011; concerning comments or a request for a public hearing, Oluwafunmilayo Taylor (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 165(i) of the Code. The temporary regulations extend the due date by which a taxpayer may elect to treat an allowable loss occurring in a disaster area and attributable to a Federally declared disaster as sustained in the taxable year immediately prior to the taxable year in which the disaster occurred, as provided in section 165(i). The temporary regulations provide rules governing the time and manner of making a section 165(i) election, as well as the time and manner of revoking a section 165(i) election. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure

Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The Department of the Treasury and the IRS request comments concerning the extension of the due date by which a taxpayer may make a section 165(i) election, as well as the time and manner in which a taxpayer may revoke a section 165(i) election. All comments will be available for public inspection and copying.

A public hearing will be scheduled if requested in writing by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Daniel Cassano and Christopher Wrobel of the Office of the Associate Chief Counsel (Income Tax & Accounting).

However, other personnel from the Department of the Treasury and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, the Internal Revenue Service proposes to amend 26 CFR part 1 as follows:

PART 1-- INCOME TAXES

1. The authority citation for part 1 continues to read, in part. as follows:

Authority: 26 U.S.C. 7805 * * *

2. Section 1.165-11 is amended by:

- a. Removing and reserving paragraphs (a) through (e) and
- b. Adding reserved paragraphs (f) through (i).

The revisions and additions read as follows:

§1.165-11 Election in respect of losses attributable to a disaster.

(a) through (i) [Reserved]. [The text of proposed §1.165-11(a) through (i) is the same as the text of §1.165-11T(a) through (i) published elsewhere in this issue of the **Federal Register**].

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

BILLING CODE 4830-01-p

[FR Doc. 2016-24674 Filed: 10/13/2016 8:45 am; Publication Date: 10/14/2016]